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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2011-505

11 **KRISTI DAWN RODRIGUEZ,**
12 **aka KRISTI DAWN FREEBORN**
13 **4216 8th Street**
14 **Rock Island, IL 61201**

DEFAULT DECISION AND ORDER

15 **Registered Nurse License No. 677834**

[Gov. Code, §11520]

16 Respondent.

17 FINDINGS OF FACT

18 1. On or about December 8, 2010, Complainant Louise R. Bailey, M.Ed., RN, in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs, filed Accusation No. 2011-505 against Kristi Dawn Rodriguez, aka Kristi
21 Dawn Freeborn (Respondent) before the Board of Registered Nursing. (Accusation attached as
22 Exhibit A.)

23 2. On or about April 17, 2006, the Board of Registered Nursing (Board) issued
24 Registered Nurse License No. 677834 to Respondent. The Registered Nurse License expired on
25 April 30, 2010, and has not been renewed.

26 3. Business and Professions Code section 118(b) provides, in pertinent part, that the
27 suspension, expiration, or forfeiture by operation of law of a license issued by a board in the
28 department shall not, during any period in which it may be renewed, restored, reissued, or

1 reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding
2 against the licensee upon any ground provided by law or to enter an order suspending or revoking
3 the license or otherwise taking disciplinary action against the licensee on any such ground.

4 4. On or about December 8, 2010, Respondent was served by First Class Mail and
5 Certified Mail copies of the Accusation No. 2011-505, Statement to Respondent, Notice of
6 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
7 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
8 Professions Code section 136 and California Code of Regulations 1409.1, is required to be
9 reported and maintained with the Board, which was and is:

10 4216 8th Street
11 Rock Island, IL 61201.

12 5. Service of the Accusation was effective as a matter of law under the provisions of
13 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
14 124.

15 6. Government Code section 11506 states, in pertinent part:

16 (c) The respondent shall be entitled to a hearing on the merits if the respondent
17 files a notice of defense, and the notice shall be deemed a specific denial of all parts
18 of the accusation not expressly admitted. Failure to file a notice of defense shall
19 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
20 may nevertheless grant a hearing.

21 7. Respondent failed to file a Notice of Defense within 15 days after service upon her
22 of the Accusation, and therefore waived her right to a hearing on the merits of Accusation
23 No. 2011-505.

24 8. California Government Code section 11520 states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense or to appear at the
26 hearing, the agency may take action based upon the respondent's express admissions
27 or upon other evidence and affidavits may be used as evidence without any notice to
28 respondent.

9 Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,

1 as well as taking official notice of all the investigatory reports, exhibits and statements contained
2 therein on file at the Board's offices regarding the allegations contained in Accusation No. 2011-
3 505, finds that the charges and allegations in Accusation No. 2011-505, are separately and
4 severally true and correct by clear and convincing evidence.

5 10. Taking official notice of its own internal records, pursuant to Business and
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
7 and Enforcement is \$1,057.00 as of January 7, 2011.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Kristi Dawn Rodriguez, aka
10 Kristi Dawn Freeborn, has subjected her Registered Nurse License No. 677834 to discipline.

11 2. The agency has jurisdiction to adjudicate this case by default.

12 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
13 Nurse License based upon the following violations alleged in the Accusation which are supported
14 by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

15 a. Violation of Business and Professions Code section 2761, subdivision (a)(4), in that
16 on or about August 12, 2009, the State of New Mexico Board of Nursing issued a Default Order
17 revoking Respondent's New Mexico Nursing License No. R47944 for failure to mail a request for
18 hearing within the time and in the manner required by N.M.S.A. section 61—1-4. The New
19 Mexico discipline against Respondent was for diverting the controlled substance Oxycodone
20 while working as a traveler registered nurse at University of New Mexico Hospital.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 677834, heretofore issued to Respondent Kristi Dawn Rodriguez, aka Kristi Dawn Freeborn, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on April 7, 2011.

It is so ORDERED March 8, 2011


FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

DOJ Matter ID:LA2010601222
70417251

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2011-505

13 **Kristi Dawn Rodriguez aka Kristi Dawn**
14 **Freeborn**

A C C U S A T I O N

15 **4216 8th Street**
16 **Rock Island, IL 61201**

Registered Nurse License No. 677834

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., R.N. ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about April 17, 2006, the Board issued Registered Nurse License Number
23 677834 to Kristi Dawn Rodriguez aka Kristi Dawn Freeborn ("Respondent"). The Registered
24 Nurse License was active at all times relevant herein but became delinquent on April 30, 2010
25 and has not been renewed.

26 **JURISDICTION AND STATUTORY PROVISIONS**

27 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
28 part, that the Board may discipline any licensee, including a licensee holding a temporary or an

1 inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of
2 the Nursing Practice Act.

3 4. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
4 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
5 licensee or to render a decision imposing discipline on the license. Under Section 2811
6 subdivision (b) of the Code, the Board may renew an expired license at any time within eight
7 years after the expiration.

8 5. Sections 118 subdivision (b) of the Code also grants the Board jurisdiction over
9 suspended, expired, forfeited, cancelled, or surrendered licenses:

10 "The suspension, expiration, or forfeiture by operation of law of a license issued by a
11 board in the department, or its suspension, forfeiture, or cancellation by order of the
12 board or by order of a court of law, or its surrender without the written consent of the
13 board, shall not, during any period in which it may be renewed, restored, reissued, or
14 reinstated, deprive the board of its authority to institute or continue a disciplinary
proceeding against the licensee upon any ground provided by law or to enter an order
suspending or revoking the license or otherwise taking disciplinary action against the
licensee on any such ground."

15 6. Section 2761 of the Code provides grounds for disciplinary action:

16 "The board may take disciplinary action against a certified or licensed
17 nurse or deny an application for a certificate or license for any of the following:

18 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

19 (1) Incompetence, or gross negligence in carrying out usual certified or
20 licensed nursing functions.

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22 (4) Denial of licensure, revocation, suspension, restriction, or any other
disciplinary action against a health care professional license or certificate by another
23 state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
24 or judgment shall be conclusive evidence of that action."

25 7. Section 2762 of the Code provides that certain conduct relating to controlled
26 substances constitutes unprofessional conduct:

27 "In addition to other acts constituting unprofessional conduct within the meaning of
28 this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
licensed under this chapter to do any of the following:

1 (a) Obtain or possess in violation of law, or prescribe, or except as
2 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
3 himself or herself, or furnish or administer to another, any controlled substance as
4 defined in Division 10 (commencing with Section 11000) of the Health and Safety
5 Code or any dangerous drug or dangerous device as defined in Section 4022.

6 (b) Use any controlled substance as defined in Division 10 (commencing
7 with Section 11000) of the Health and Safety Code, or any dangerous drug or
8 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
9 in a manner dangerous or injurious to himself or herself, any other person, or the
10 public or to the extent that such use impairs his or her ability to conduct with safety to
11 the public the practice authorized by his or her license.

12 (c) Be convicted of a criminal offense involving the prescription,
13 consumption, or self-administration of any of the substances described in
14 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
15 record pertaining to, the substances described in subdivision (a) of this section, in
16 which event the record of the conviction is conclusive evidence thereof.

17 (d) Be committed or confined by a court of competent jurisdiction for
18 intemperate use of or addiction to the use of any of the substances described in
19 subdivisions (a) and (b) of this section, in which event the court order of commitment
20 or confinement is prima facie evidence of such commitment or confinement.

21 (e) Falsify, or make grossly incorrect, grossly inconsistent, or
22 unintelligible entries in any hospital, patient, or other record pertaining to the
23 substances described in subdivision (a) of this section.”

24 COST RECOVERY

25 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case.

29 FIRST CAUSE FOR DISCIPLINE

30 **(Disciplinary Action by the New Mexico Board of Nursing)**

31 9. Respondent is subject to discipline pursuant to Section 2761 subdivision (a)(4) of the
32 Code on the grounds of unprofessional conduct because she was disciplined by the New Mexico
33 Board of Nursing (“New Mexico Board”), as follows:

34 10. On or about August 12, 2009, the New Mexico Board issued a Default Order in the
35 disciplinary action entitled, *In the Matter of: Kristi Freeborn License No.: R47944*. In its Default
36 Order, the New Mexico Board ordered Respondent’s license revoked for failing to respond to a
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1 Notice of Contemplated Action that the Board had filed on or about May 4, 2009 and
2 subsequently served upon Respondent.

3 11. The Notice of Contemplated Action to which Respondent failed to respond included a
4 complaint alleging that on or about September 26, 2008, while working as a traveling nurse at
5 University of New Mexico Hospital in Albuquerque, New Mexico Respondent falsified patient
6 and hospital records to obtain Oxycodone for her own use. Oxycodone is an opiate used to
7 control pain. After another nurse noticed discrepancies in the medication dispensing machine,
8 Respondent was found carrying a syringe with Oxycodone and Morphine. When questioned,
9 Respondent lied about a physician's instructions for administering those medications to a patient.
10 Then when security came to investigate the incident, Respondent refused to submit to a drug test
11 and left the hospital.

12 12. Under Section 2761 subdivision (a)(4) of the Code, the New Mexico Board's
13 disciplinary action against Respondent for diverting prescription drugs for her own use is ground
14 for the California Board to take disciplinary action.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct)**

17 13. By committing the acts set forth in paragraphs 9-12, above, Respondent is subject to
18 discipline under Code section 2761 subdivision (a) on the grounds of unprofessional conduct
19 because she falsified hospital and patient records in order to obtain Oxycodone for her own use,
20 failing to exercise the learning, skill, or care of a competent registered nurse.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Drug-Related Transgressions)**

23 14. By committing the acts set forth in particularity in paragraphs 9 through 12, above,
24 Respondent is subject to disciplinary action under Section 2762 subdivisions (a) and (e) of the
25 Code for obtaining Oxycodone, a controlled substance, in violation of the law, and for falsifying
26 hospital and patient records to do so.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 677834, issued to Kristi
5 Dawn Rodriguez aka Kristi Dawn Freeborn;

6 2. Ordering Kristi Dawn Rodriguez aka Kristi Dawn Freeborn to pay the Board of
7 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
8 pursuant to Business and Professions Code Section 125.3; and,

9 3. Taking such other and further action as deemed necessary and proper.
10

11 DATED: December 8, 2010

Louise R. Bailey
LOUISE R. BAILEY, M.Ed., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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